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ABSTRACT

This publication addresses issues concerning the application of the law to extended-day Catholic schools. The first chapter provides an overview of extended care. In the second chapter, sources of the law that are applied to extended care programs are described. Canon law affects Catholic schools. Catholic schools are also subject to four types of civil law: (1) constitutional law; (2) federal and state statutes and regulations dealing with issues such as sexual and handicapped discrimination; child abuse; and fingerprinting and criminal checks; (3) common law; and (4) contract law. In the third chapter, legal issues for extended care programs that involve tort law are considered. Tort suits in schools are generally of four classes: (1) negligence, which requires the presence of a duty; a breach of duty; a proximate cause; and an injury; (2) corporal punishment; (3) search and seizure; and (4) defamation of character. The fourth chapter notes that extended care parent handbooks should address issues such as the program philosophy, admission policies, the program schedule, daily release, the discipline code, field trips, health and safety, emergency procedures, considerations regarding noncustodial parents and other relatives, program and student evaluations, and parents' signed agreement to the provisions of the handbook. A bibliography of 14 items, and a list of unpublished extended care materials, are included. (BC)

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Extended Care Programs in Catholic Schools: Some Legal Concerns

Mary Angela Shaughnessy, SCN

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Table of Contents

Dedication ii

Acknowledgement iii

Preface v

Chapter I Extended Care: An Overview 1

Chapter II Sources of the Law Applied to Extended Care 7

Chapter III Tort Law: Some Legal Considerations for Extended Care Programs 17

Chapter IV Handbook Contents: Legal Protection for Extended Care 29

Bibliography 44

Index 47

About the Author 49

Dedication

This work is dedicated, with love, to my sisters and brothers—Thomas, Edward, Lawrence, and Janet Shaughnessy, and Karen (Shaughnessy) Schultz—with whom I shared many happy hours before and after school.

Mary Angela Shaughnessy, SCN
Louisville, Kentucky
September, 1990

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Many persons have influenced the writing of this work. Dr. Robert Kealey, Executive Director of the NCEA's Elementary Department, has supported this endeavor from beginning to conclusion. The author is grateful to four persons working with extended care programs who provided practical information concerning the administration of those programs: Sister Barbara Campbell of the Wheeling/Charleston Office of Education, Ms. Molli Gottbrath of Holy Spirit After School Care Program in Louisville, Ms. Sally Price of the Office of Catholic Charities in Louisville, and Ms. Bernadette Ritchey, principal of St. Francis of Assisi School in Louisville.

Miriam Corcoran, SCN, of Louisville, served as proofreader and critic; her editorial advice was extremely valuable. As always, the author is grateful to the many persons in Catholic education who have shared their ministries with her.

Preface

One of the quiet and perhaps one of the most significant revolutions that has taken place in American society over the last 30 years is the increase in both parents working. A generation ago, children who returned from school to an empty house were the exception. Today children who return to a house with a parent are fast becoming the exception. Parents who work must leave home early to travel to work and they return home late after eight hours of work.

What happens to the children who can walk to the parish school only a few blocks away and who finish school several hours before parents return home?

Catholic schools have long recognized this need and have expanded their day. Over 30 percent of the Catholic elementary schools in the United States open their doors to serve breakfast to children and keep their doors open to provide a secure and enriching environment for students until six or seven o'clock in the evening. This response typifies how Catholic school educators have always responded to the needs of the time. The increasing numbers of parents using these programs shows how parents value them. However, in addition to providing service, these Catholic schools must also insure the safety of the students.

The NCEA Department of Elementary Schools Executive Committee recognizes the importance of these programs and the need to provide assistance to educators involved in them. As part of its concern and efforts of assistance, the committee approved the publication of this work.

Extended Care Programs in Catholic Schools: Some Legal Considerations addresses an important aspect of these programs of service. Questions frequently arise as to what can and cannot be done. This book answers many questions that principals, teachers and parents will have. The author fits these answers into the broader context of the application of the law to Catholic schools and the responsibility of schools under tort law. Finally several suggestions regarding handbooks are offered.

The author of this work Sister Mary Angela Shaughnessy, Ph.D., a member of the Sisters of Charity of Nazareth, is well known to the membership of NCEA. Her column on legal issues appears in each issue of *NCEA NOTES*. In addition over the last few years she has written several books for NCEA. Among them are: ***Catholic Preschools: Some Legal Concerns, School Handbooks: Some Legal Considerations, and A Primer on School Law: A Guide for Board Members in Catholic Schools.***

The Department thanks Sister Mary Angela for this important work and offers it to the membership of NCEA with the assurance that they will find it most helpful.

Bonnie Pryor
President

Robert J. Kealey, Ed.D.
Executive Director

Department of Elementary Schools
Feast of the Holy Family, 1990

CHAPTER I

Extended Care: An Overview

Today's schools face many challenges, and Catholic schools are no exception to this reality. No longer is it sufficient to provide an academically excellent education in a Christian community. Students need more, and parents, community members, and legislators are demanding that schools devise ways of meeting student needs. No longer do the majority of mothers stay home to rear children; most are in the work force. Single parents who must work are faced with many problems which they often look to school administrators to handle. One of the biggest difficulties is finding appropriate, safe care for children prior to, and after the normal school day when parents are still at work. The school is a logical place for parents to consider as a viable before and/or after school care site for their children.

Catholic schools and their administrators generally want to meet as many student needs as possible. Pastors, parish council members, and other parishioners often wish to provide whatever services the school can offer its constituents as well as to maximize the use of existing parish space. It would seem a logical extension of the school's ministry to offer child care before and after school.

The reality often is that in response to a need, principals find themselves contemplating a fairly imminent beginning of extended care services. The administration of extended care programs requires expertise, careful planning, and a working knowledge of legal responsibilities and liabilities.

A basic question that must be answered is "What is extended care?" Not only is the concept somewhat difficult

to *define*, it may also be found under several titles: extended care, before and after school care, extensive programs, school-age child care, school-age day care. The first two terms, *extended care* and *before and after school care*, are most often used to describe programs operated as an extension of the school day and administered by the school principal. The regulations of individual states regarding licensing will affect the relationship of the principal to the program. School-age child care and school-age day care generally describe programs which are not closely connected with a school. An independent agency may operate a center within or outside the school building and have no direct ties with the principal. Some states are now designating any care offered a certain number of children as day care. For example, the state of Kentucky defines "day care":

> 'Day care' means care of a child in any child care facility, which provides full or part-time care, day or night, to at least four (4) children not related to the operator of the child day care facility by blood, marriage, or adoption away from his own home and is designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development, and supervision, when it is necessary or desirable for the parent or child to be out of the home for all or part of the day or night. (905 KAR 2:010 *Standards for All Child Day Care Facilities*)

These standards offer the following relevant definitions: "'Child' means a person under eighteen (18) years of age . . . '[s]chool-age child' shall be considered as one attending kindergarten or above."

Definitions such as these and others found in the statutes of most states illustrate the problems facing school administrators. It is unlikely that high school administrators are concerned about providing school-age child care for their students (although an argument can certainly be made that the after school activities available to high school students constitute a day care of sorts). It is the elementary principal who must decide how best to meet the needs of students. Does one do this by operating a program that is

viewed as an extension of the school experience and thus is outside the requirements of state law concerning child care? Or is it better to seek licensing from the state and fulfill all the requirements of licensed school age care facilities?

Compelling arguments can be made on both sides. If the child care program is to be housed in the school, a principal may well want to be directly responsible for it, even if an employee actually manages the day-to-day operations of the center. In effect, the principal is the director of record if the program is part of the school and employees are school employees. If the child care program is part of the school, it may be easier for teachers and other school staff to work with child care staff in meeting students' academic, emotional, and social needs. Another advantage of the extended school program is that, theoretically at least, it may be operated without adherence to constraints imposed by law on child care programs.

Sally Price, a licensed clinical social worker on the Parish Community Outreach Staff of the Archdiocese of Louisville's Catholic Charities agency, cautions schools to be extremely careful if they decide not to seek state licensing: "State officials, in Kentucky at least, are interpreting the statutes as meaning that a school-age child care program can only be considered as an extension of the school day if the academic portion continues" (personal communication, May 15, 1990). Other states do not have this academic requirement. Thus, a principal should first ascertain the state's interpretation of a school sponsored extended day. If the state follows the Kentucky interpretation of extended day, an administrator who wishes to operate a program as an extension of the school day must insure that there is a structured program that can be substantiated from an educational standpoint. Programs are not required to continue academic instruction for the total session, but there must be a clear academic component such as structured homework time or instruction in sports, music, and/or art. What must be avoided is a program that is simply supervised play.

Conversely, an argument can be advanced for separation of the child care facility from the operations of the school. Child care then is one less responsibility for an

already burdened principal. Child care directors are freer to devise independent programs and to follow student interests than if the program were part of the school. The fact that licensing agencies will be monitoring activities helps to insure that optimum operating conditions are maintained. However, the needs of individual children may dictate a closer association with the school.

In very few dioceses, and no evidence exists that this practice is expanding, the principal and school's right to choose between "school age child care" and "extension of the school day" has been limited by bishops placing such before and after school care programs under the auspices of the diocese's Catholic Charities. In other dioceses the jurisdiction of the Catholic Charities agency is seen as simply supportive and/or information giving. In still other dioceses, Catholic Charities has provided leadership in licensing requirements and has offered staff members as program directors who meet state licensing requirements and who oversee the work of site directors. Finally, in some dioceses no programs would exist for students if school principals did not exert leadership.

The most recent data show that the largest number of extended day programs are conducted by schools. Over 30% of the Catholic elementary schools in the United States have extended day programs.

This book concerns extended (before and after school) care in the Catholic grade school. The introduction is included to illustrate the complexity of the issues raised by extended care. It is important that Catholic schools seeking to begin or continue an extended care program define their constituencies carefully.

Extended care services have grown rapidly in the last several years. The majority of programs are those providing after school care, generally from the end of the school day until 6:00 p.m. or so. For kindergarten students the end of the school day may be as early as 11:30, so some programs begin then. Today many schools are offering, or are considering offering, before school care as well. Many schools offer care on school holidays and a small but growing number offer summer care.

Once a school program during the regular school year

accepts a certain percent of students who are not enrolled in the school, it generally ceases to be an extension of the school and is subject to day care licensing regulations. California, for example, allows 15% of its children to be from these institutions before it must follow the licensing regulations. This situation exists unless the school can legitimately demonstrate that its primary purpose is education and that those children who are not enrolled in the school's regular program are students in a specific educational program. This book focuses on the legal concerns of the extended care program in the Catholic elementary school. The philosophy of any institution answers the question, "What do we say that we are doing in this institution?" Goals and activities of any program must be judged in the light of the sponsoring institution's philosophy. It is highly advisable that an extended care program have a philosophy within a philosophy, a statement of its particular function within the school.

Extended care programs cannot exist in a vacuum within a parish, school, or diocese. The next chapter will consider extended care programs as part of both the canon law and civil law structures of the larger schools in which they function.

Governance structures should be decided before the extended care program begins operation. If the program operates within the elementary school building and shares facilities with it, an excellent management argument can be made for having one chief building administrator, with the extended care director reporting to that individual. If this type of organization is utilized, principals must be diligent in their supervision of director and staff. The program cannot simply be one of many that uses the school facility with the principal paying only cursory attention to it. The principal must give the program the same supervisory attention that all other school programs merit. There should be regular and ongoing evaluation of both programs and staff.

In these days of youth ministry, adult education, CCD and other programs occupying the same space as the parish school, there are certainly valid arguments for program autonomy. If extended care is to be independent of the

school and its administration, areas of authority and responsibility should be determined prior to the opening of the extended care program.

In a few situations extended care is operated in schools and/or parishes by independent persons and/or companies who, in effect, lease space from the institution. If such be the case, the relationship of church/school and program is the same as that of any other program which leases space.

Except in the leasing arrangement described above, extended care is part of the parish in a parish setting, part of the regional and/or diocesan school in that setting, and part of the institution owned by a religious congregation or board of trustees in a school owned by one of those bodies.

Day Care v. Education

Traditionally, day care has been viewed as a service for children under three or below the age of compulsory school attendance. As the Kentucky statute quoted earlier indicates, states are broadening the concept to include care of school age children *in a child care facility.* Day care is much more stringently regulated than are school programs. State social service departments, rather than state departments of education, are usually charged with the licensing of day care centers. Operating day care centers in violation of state law carries serious liabilities for all involved in the administration of the program.

If children who are not enrolled in the school are allowed to enroll in the extended care, principals would be well advised to adhere to all day care requirements. Decisions to accept "non-school" children should be made only after serious consideration of all potential liabilities and after consultation with legal counsel. School programs should never operate a "drop in" service in which parents may leave children before having a meeting or discussion with the school administrator or program director.

CHAPTER II

Sources of the Law Applied to Extended Care Programs

Catholic schools are subject to both church and civil laws. All programs operated under the direction of Catholic schools and/or parishes are subject to those laws.

CANON LAW

Canon or church law controls both the existence and continuance of Catholic institutions. A school or a program within a school can call itself Catholic only with the approval of the bishop. In the case in which a child care program is operating in a parish without a traditional school, the preschool is subject to canon law in the same way that the parish is. The program must be governed by canon law even if it must also be licensed by the state.

The discussion of canon law in this work must, of necessity, be brief. It should be noted, however, that there are four kinds of Catholic schools in the United States today: the diocesan school, the parish school, the regional school and the school owned by a separate body, a religious congregation or a board of trustees. An extended care program could, conceivably, be one of, or part of, these structures.

Most extended care programs operate as part of parish or regional schools. It may be helpful to consider briefly

how each of the four types of schools is affected by canon law.

Traditionally, the diocesan school has been associated with secondary education. In recent years, however, some dioceses have begun to sponsor regional elementary schools. Diocesan schools are established by the bishop and are directly under his authority or that of his delegate, e.g., the superintendent of schools.

Historically, the parish elementary school has operated as part of a parish governed by a pastor who is the ultimate authority in that parish, subject only to the bishop.

The regional school is a hybrid of the parish and diocesan school. It is not uncommon to see a number of parish schools consolidating and becoming regional schools. Governance structures may take different forms in the regional school. Whatever the structure, the bishop maintains direct authority over the school.

A fourth type of school is one operated by a religious congregation or other independent body, such as a Board of Trustees. Religious congregations and boards are not as directly related to the dioceses as are the governing structures of the other schools. While a parish school is part of what canon law calls the juridic person of the parish (juridic person is the canon law equivalent of a civil law corporation), the independent school is a juridic person in its own right or is part of the juridic person represented by the religious congregation in that diocese.

Those who wish to begin and to continue extended care programs in a Catholic setting must understand that they have the same obligations as anyone operating any other educational program within the Catholic Church. The sole exception lies in the situation in which independent contractors lease school and/or parish property to begin their own extended care programs. If there are no links with the parish or school, the proprietor of such an extended care program would probably not be considered bound by the same canon law requirements as one associated with the parish.

CIVIL LAW

In addition to canon law, Catholic schools are also governed by civil law. Sources of that civil law include: Constitutional law, contract law, statutes and regulations, and common law.

CONSTITUTIONAL LAW

The main source of the law affecting public schools is the Constitution. The Constitution guarantees certain rights to its citizens. The most notable of these are found in the first ten amendments to the Constitution, the Bill of Rights. These Constitutional guarantees must be provided by all governmental agencies; however, there is no corresponding requirement that private agencies must afford persons Constitutional protections.

One of the greatest misconceptions among Catholic school parents and students is that they have Constitutional rights while they are in the Catholic school. The Catholic school, as a private agency, is under no legal requirement to grant the same Constitutional protections as the public school. Therefore, in a Catholic school one can legally forbid what could not be forbidden in a public school. For example, Catholic schools can require the wearing of uniforms. They can also forbid the wearing of certain items such as buttons or T-shirts promoting a position inconsistent with the teaching of the Catholic Church. In the public school such actions can not be taken as they would violate First Amendment protections concerning freedom of speech.

At first glance the lack of Constitutional protections in a Catholic school may appear oppressive. The same lack, however, exists in any private agency. If one wishes to nurse in a hospital and a uniform is required, the nurse must wear it. One can always leave the private institution and reclaim one's Constitutional rights, but while in the private institution it is as if Constitutional protections were left at the door.

Of special note are the Constitutional protections concerning due process. The Fifth and Fourteenth Amendments require that persons cannot be punished without

certain protections, the minimum of which are *notice* and a *hearing* before an *impartial tribunal.* Further procedural protections include the right to confront one's accusers, call witnesses in one's own behalf, cross-examine witnesses, and have an attorney present. These protections are the right of public school students and their parents. It would seem that any Catholic school program would grant the first three requirements simply to satisfy the demands of the Gospel, but persons seeking legal recourse when due process rights have been denied, must look elsewhere than Constitutional law for relief.

STATUTES AND REGULATIONS

Federal and state statutes and regulations govern public schools and may govern private schools as well. Failure to comply with reasonable regulations can result in the imposition of penalties. Administrators will discover that many aspects of a school's existence are subject to state and federal law. States may pass statutes governing health, teacher certification, lunch programs, *et cetera.* As indicated earlier, statutes may govern what one may and may not do in a child care center. The state board of education can issue regulations which are binding on schools.

Health regulations concerning disease control must be strictly followed. Ordinarily, students who have communicable diseases should not be allowed to be present for any school program. It is crucial that parents understand policies governing the school attendance of sick children. Regulations concerning school attendance of students with AIDS vary from state to state. Being afflicted with the disease should not *per se* exclude an individual student. The laws of most states require a case-by-case analysis.

Discrimination

Regulations governing discrimination are perhaps the most important, as a relatively recent case, *Bob Jones University v. United States* 103 S.Ct. 2017 (1983) illustrates. When Bob Jones University was found to use racially discriminatory admissions and disciplinary policies, the Internal Revenue Service withdrew the university's tax exempt

status. This action was based on a regulation denying tax exempt status to any institution discriminating on the basis of race. Before a Catholic school will be forced to comply with a regulation, the state has to demonstrate a *compelling interest* in the enforcement of the regulation.

In the *Bob Jones* case, the government's compelling interest in racial equality was sufficient for the court to order Bob Jones to comply with the anti-discrimination legislation or to forfeit its tax exempt status. Racial discrimination cannot be tolerated in any aspect of Catholic school operation. To date, there have been no lawsuits that have reached a court of record alleging racial discrimination in a Catholic school. All persons who work in extended care programs should be instructed in ways to identify and constructively deal with their own possible prejudice as well as in means to promote racial harmony and acceptance.

Catholic schools must guard against even the appearance of any form of discrimination, except that of religion. The right of any religious institution to give preference to members of that religion has long been upheld.

Sexual Discrimination

Sexual discrimination (except in schools that have a history of being single sex) must be avoided. Catholic schools cannot attempt to achieve a balanced ratio of boys and girls by denying services to a student who is the undesirable sex for the balance.

Administrators of extended care programs should insure that boys and girls are not inappropriately segregated and are not denied access to a certain activity because that is a "girls'" or "boys'" activity. Staff members must be hired on the basis of ability, not sex. For example, it would be impermissible to hire only women for an extended care program because they will be like mothers for the children.

Handicapped Discrimination

Protection of the rights of the handicapped can present many problems for Catholic schools which are generally not appropriately accessible. A school is not expected to

spend exorbitant amounts of money to bring a facility up to the requirements of the handicap code. A school program is expected to admit a child if, with reasonable accommodation on the part of the school, the student can function in the environment.

The problems of handicapped students will probably not be a major concern of an extended care program, since the principal will have screened students for acceptance into the school. Those who are not physically and mentally qualified should have been refused admission *unless* the school could make a reasonable accommodation.

Problems arise when a principal accepts a handicapped child in response to parents' pleas that the child be placed in the school and given whatever the school can offer, no matter how meager. If problems exist in the regular school program, they will only be exacerbated in an extended day program. As difficult as it is to deny admission to a handicapped student, the principal should do so if a chronic physical or mental problem precludes the child's functioning in the school environment.

If a handicapped child is a student in the regular program and parents seek admission into extended care, it is permissible for an administrator to admit that child conditionally. Parents may be required to sign a statement agreeing that the placement is temporary and subject to re-evaluation. Such agreements should be reviewed by an attorney and then notarized.

Child Abuse

Child abuse is a topic of statutory consideration worthy of special note. All states have laws requiring those who work with children to report suspected child abuse. For example, the child abuse reporting law for the state of Kentucky is found in Kentucky Revised Statute 199.335(2):

Any physician, osteopathic physician, nurse, teacher, school personnel, social worker. . . child caring personnel. . . who knows or has reasonable cause to believe that a child is an abused or neglected child, shall report or cause a report to be made in accordance with the provisions of this section. When any of the above specified persons is attend-

ing a child as part of his professional duties, he shall report or cause a report to be made. . . ."

Extended care administrators must understand the child abuse reporting laws of the state in which the facility is located. All staff members, both paid and volunteer, must be given inservice training in the identification of child abuse and neglect.

Many experts advise that the school administrator, usually the principal, make all child abuse and/or neglect reports, so that the same person is reporting all situations in a given school. However, individual state laws may vary on this point. Each staff member must understand that, if for some reason the school or program administrator refuses to make the report, the staff member must file the report. If a staff member files a report, the superior must be notified. It is legally dangerous for the school and/or program when a police officer or other official appears to investigate a report of child abuse, and the administrator does not know that a report has been filed.

School officials should decide in advance how visits and requests from police or social workers will be handled. Many states require that school personnel allow officials to examine and to question the child. Administrators should seek legal counsel in determining the applicable law for a given state. If the school permits the examination and questioning of a child, a school official should always be present.

Fingerprinting and Criminal Checks

Many states now mandate that persons who work with children be fingerprinted; each applicant must also sign an authorization of a police check of his or her name for any criminal arrests and/or convictions. Conviction of a crime is not an automatic, permanent bar to employment. Most states will bar persons who have been convicted of a violent crime and/or sexual offense against children in the ten years immediately preceding employment. Administrators may wish to include a statement such as the following on applications: "Conviction of a crime is not an automatic bar to employment. Please give all pertinent details. Decisions will be made as required by state law."

Teen-age Volunteers: Some Cautions

Most state and local requirements indicate clearly that only adults may supervise children in extended care. If teen-agers assist with the program, they must do so only as aides and under the direct supervision of a responsible adult.

City/Town Regulations

Catholic schools are, of course, bound by the rules and regulations of the city or town in which they are located. If there is a code stating that a room used for the instruction and/or care of children must have two exits, then the administrator must insure that there are two exits from the room. The next chapter will discuss negligence and the legal problems that can arise when regulations are not followed, and reasonable care of students is not taken.

COMMON LAW

A third source of the law affecting Catholic schools is the common law. Common law is law that has not been made by a legislature or other law-making body; it is basically law made by judges in their legal opinions and decisions which become precedents for future cases. In the situation of the Catholic school and its programs, the common law doctrine of fairness predominates—how reasonable persons are expected to treat one another. This doctrine has been developed by judges while hearing lawsuits over many years. The United States' system of common law traces its roots to the beginnings of recorded case law in England.

CONTRACT LAW

One of the most important sources of the law for the Catholic school is contract law. It is to contract law, rather than Constitutional law, that courts will look when attempting to settle grievances. A contract may be defined as: "An agreement between two or more persons which creates an

obligation to do or not to do a particular thing", (Black, 1979, pp. 291-92). Generally, the five basic elements of a contract are: (l) mutual assent (2) by legally competent parties for (3) consideration (4) to subject matter that is legal and (5) in a form of agreement which is legal.

Mutual assent implies that two parties entering into a contract agree to its provisions. A Catholic school agrees to provide extended care for a student and, in return, the parents agree to pay a fee and to support the rules of the program.

Consideration is what the first party agrees to do for the other party in exchange for something from the second party. The extended care services are the consideration the school offers in return for the parents' consideration of fee payment and support of the rules.

Legally competent parties implies that the parties entering into a contract are lawfully qualified to make the agreement. Schools and their administrators are legally competent to enter into contracts to educate students. Parents are legally competent to agree to pay tuition and meet other obligations. An older brother or sister would not be competent to enroll a child in an extended care program.

Legal subject matter assumes that the provisions of the contract are lawful. It would not be lawful, for example, to include a clause in an extended care contract, that a student would have to withdraw if his or her parents were involved in a scandal, as a child cannot be held responsible for the actions of parents.

Legal form may vary from state to state. It is always advisable to have an attorney review contracts before they are used.

If any one of the five elements of a contract is missing, the contract may be held to be null and void.

Administrators of extended care programs should give careful consideration to a separate contract for that program. Important responsibilities, such as seeing that students arrive and depart within specified times, should be listed. This contract might read, in part, as follows:

We, the parents of _____, in consideration of acceptance into the extended care program, agree to make timely payments of required fees and to adhere to all rules and regulations of the program. We understand that our failure to meet the conditions of this agreement may result in our child's being dismissed from the program.

The majority of cases brought against Catholic schools allege breach of contract, an offense formally defined as follows:

> A breach of contract occurs when a party does not perform that which he or she was under an absolute duty to perform and the circumstances are such that his or her failure was neither justified nor excused. (Gatti and Gatti, 1983, p. 124)

Breach of contract can be committed by either party to the contract. If a parent fails to pay tuition or to insure that his or her child obeys the rules, the parent has breached the contract. If the school fails to provide the promised services or provides them in a less than reasonable manner, the school has breached the contract.

In disputes, courts look to the language of the contracting documents. Enrollment contracts and parent/student handbooks are parts of the contract and must not contradict each other. Chapter IV will provide a more extensive discussion of handbooks.

The extended care program in a Catholic school, then, is subject to the same civil and canon law provisions as is the school. It is imperative that program administrators have a working understanding of the basic requirements of those provisions.

CHAPTER III

Tort Law: Some LegalConsiderations For Extended Care

The majority of civil lawsuits brought by parents and/or students against schools and administrators are tort suits. Tort law is a fifth type of civil law governing schools. A tort is an injury resulting from a breach of the duty of care one person owes another. It may take one of several forms. *Black's Law Dictionary* states:

> It may be either (l) a direct invasion of some legal right of the individual; (2) the infraction of some public duty by which special damage accrues to the individual; (3) the violation of some private obligation by which like damage accrues to the individual. (p. 1335)

Black distinguishes between private torts and Constitutional torts. If a public school official were to be found guilty of a Constitutional tort, such as deprivation of Constitutional due process, he or she would be said to be acting under "color of law". A Catholic school administrator could not normally be guilty of a Constitutional tort because he or she would not be acting as a public official.

A tort is a wrong "other than breach of contract" (Black, p. 1335), therefore, the law governing tort cases in the Catholic school will not be contract law but will be the same law which is applied in the public school, tort law.

Torts are one area in which public school administrators seem to have more protection than do private school

administrators. Under the doctrine of sovereign immunity (the ancient tenet that the king could not be sued), public officials can be granted immunity from liability for torts which resulted from the performance of their official duties. In the last few decades, the doctrine of sovereign immunity has been sharply limited, as courts have been reluctant to release public officials from responsibility for injuries resulting from their actions. An analogous protection, the doctrine of charitable immunity (the tenet that an institution whose purpose is to perform charitable acts should not be sued), offered some protection for the Catholic institution. This doctrine, like sovereign immunity, has fallen into disrepute. Catholic school administrators seeking to avoid liability for injuries will have to look elsewhere than to charitable immunity for a defense.

There are four main types of torts arising in schools: those resulting from 1) negligence; (2) corporal punishment; (3) search and seizure; and (4) defamation.

NEGLIGENCE

If a Catholic school administrator is sued, the chances are that the suit will be one alleging negligence, as it is the most common of all lawsuits filed against teachers and administrators (Gatti and Gatti, 1980).

In deciding whether negligence has occurred, courts will use the reasonable person standard and ask, "What would a reasonable person in the defendant's position have done in this situation?" Courts also rely on the principle, "The younger the child chronologically or mentally, the greater the standard of care." Seventh and eighth graders in an after school program, for example, would ordinarily not require the same level of supervision that kindergarten students would need. If students have been instructed as to how to behave if unsupervised, one could, for good reason, leave older students unattended. However, it is extremely difficult to imagine many reasons other than a legitimate emergency when children, older or younger, could be lawfully left unattended.

Extended care programs present many situations in which negligence could occur. Gatti and Gatti (1983) have

defined negligence as "the unintentional doing or not doing of something which wrongfully causes injury to another" (p. 246). It is important to note that negligence is not intentional; a person with the best of intentions can be negligent, and that negligence can result in injury.

Four elements are necessary before a finding of legal negligence can be made. If any one of the elements is missing, a person cannot be found guilty of negligence. These elements are: duty, breach of duty, proximate cause, and injury.

A person charged with negligence must have had a duty in a given situation. If a teacher is shopping in a mall and sees two students engaging in dangerous activity, the teacher has no legal duty in the situation. Even if the students were injured, the teacher could not be held liable.

In an extended care program, teachers have the duty to protect the health and safety of the students entrusted to their care. Staff members are required to provide reasonable supervision of their students. Administrators are responsible for the development and implementation of policies and procedures which guide staff in their work of supervising children.

One situation that presents many problems from a negligence standpoint is that of the student who arrives early (particularly in the case of before school programs) and/or is not picked up at dismissal time. All staff members must understand that children must be supervised from the time they arrive at the program site until the time they depart. If parents are late in picking up their children, an adult staff member must remain with the child until the parent arrives. Fines can be imposed for late pick up. It is probably a good idea to make the fine fairly high so that parents will not get in the habit of coming late. One school lists its late pick up policy in this manner:

> LATE PICK UP FEE — The Center closes promptly at 6:00 p.m. If you are late, a staff member will stay with your child until you arrive. After 6:00 p.m. you will be charged $2.00 per 5 minutes. (Ritchey, 1989)

Whatever procedure an extended care program chooses to use, at no time may a child be left unattended or left in front of a locked school door to await the arrival of his or her parents. Courts have indicated that administrators and staff members can be held responsible for student behavior occurring on school property before or after programs and for the consequences of this behavior. Valente (1980, p. 358) comments: "Beyond the duty to supervise grounds during normal operating hours, supervision may be required before and after class hours when students are known to congregate on school grounds."

The school case of *Titus v. Lindberg* 228 A.2d 65 (N.J., 1967) illustrates the extent to which administrators can be held liable. In this case the administrator was found negligent and responsible for a student injury occurring on school grounds before school because: he knew that students arrived on the grounds before the doors were opened; he was present on the campus when they were; he had established no rules for student conduct outside the building, nor had he provided for student supervision. The court ruled that he had a reasonable duty to provide such supervision when he knew students were on the property before school.

This case illustrates the dilemma in which school program administrators may find themselves. If parents drop students off prior to the opening time of before school care, is the administrator responsible? How does the administrator provide for supervision? Many before school care programs begin as early as 6:00 a.m. Whatever the opening time, it seems reasonable to have a staff member present thirty minutes to an hour before time. Courts expect some policy or statement as to when students may arrive at a program site, what rules they are to follow, and what kind of supervision will be provided. As described above in the case of late pick-ups, fines can be assessed for early arrivals and other penalties can be imposed. A chronic early arrival might be dismissed from the program.

In any situation, common sense must prevail. Textbook solutions are rarely available for persons working with children. Gatti and Gatti (1983, p. 246) state, "All people owe all other people the 'duty' of not subjecting

them to an unreasonable risk or harm." This statement is especially true when adults are dealing with children entrusted to their care.

The second element is breach of duty. It is possible to have a duty in a situation in which a student sustains an injury, but the adult did not breach that duty. For example, courts expect that spontaneous actions can occur. If an extended care staff member were properly supervising students playing ball on a playground and a student surreptitiously picked up a bat and flung it at another child who was thus injured, the staff member would probably not be held liable. This non-liability would be due, in part, to the fact that there was really nothing the staff member could have done to prevent the injury. Conversely, if a staff member were to allow students to engage in dangerous behavior and someone were injured, that staff person would probably be held liable.

Proximate cause is the third element of negligence. Valente (1980) defines proximate cause:

To be proximate, a cause need not be the immediate, or even the primary cause of injury, but it must be a *material and substantial* factor in producing the harm, 'but for' which the harm would not have occurred. (p. 351)

Two cases illustrate the concept of proximate cause. Although these cases happened in the traditional school setting, it is easy to see how similar situations could occur in extended care settings.

In the case of *Levandoski v. Jackson City School District* 328 So.2d 339 (Minn. 1976), a principal and teacher failed to report that a student was missing from the school. The child was subsequently found murdered. The child's mother filed suit against the school district and alleged that, if the child's absence had been reported, the murder would not have happened. However, the court found no evidence supporting the contention that, if the teacher and principal had properly and promptly reported the child's absence, the murder could have been prevented. One should not draw the conclusion that carelessness in reporting absences is acceptable; it certainly seems possible that another court with slightly different facts (for example, the child were found dead on or near the school grounds)

might have reached another conclusion. The *Levandoski* court simply found that the principal's and teacher's violation of duty was not the proximate cause of the injury.

Attempting to avoid tragedies like *Levandoski,* extended care programs should have policies requiring all children to sign in or to be signed in upon entering the program site and all parents or other designated adults to sign out the children when they leave.

The case of *Smith v. Archbishop of St. Louis* 632 S.W.2d 516 (Mo. Ct. App. 1982) is an example of a case in which the action of a teacher was held to be the proximate cause of student injury. This case involved a Catholic school second grade teacher who kept a lighted candle on her desk during the month of May to honor Mary, the Mother of God. She gave students no special instructions regarding candles and their dangers. One day a student wearing a crepe paper costume walked too close to the candle. Her costume caught fire and she sustained serious physical and psychological injuries.

In *Smith* the court found that the teacher was negligent. Her violation of duty (keeping a dangerous object, a lighted candle, near children) was the proximate cause of the student's injury. Extended care programs often involve items that could be just as dangerous as lighted candles: pans of food or liquids cooking on stoves; materials that could be ingested; heavy furniture or play equipment that could be pulled over by a child.

Proximate cause is not direct causation. The teacher in *Smith* did not directly cause the child to be burned, but her action was a material and contributing factor in the injury. Staff members' negligence can be the proximate cause of a child's injury if they *did not* do the thing that would have prevented the injury or *did* do something (put a lighted candle near children) that contributed to the injury. The concept of *foreseeability* is important. Would a reasonable person foresee that there is a likelihood of injury? The *Smith* court reasoned:

> Negligent supervision, like any other tort, involves a breach of a duty defendant owes plaintiff which causes plaintiff to suffer damages.

> . . . To recover, plaintiff need not show that the very injury resulting from defendant's negligence was foreseeable, but merely that a reasonable person could have foreseen that injuries of the type suffered would be likely to occur under the circumstances. (p. 521)

Extended care programs present special dangers. Children are not in the traditional school setting. In the best of circumstances, children possess almost unbounded energies. After school programs, in particular, offer opportunities to expend that energy in vigorous physical activity as well as in quieter enterprises. Extended care administrators would be well-advised to hold periodic staff meetings in which program components and equipment are discussed and foreseeable problems are analyzed so that reasonable plans for ongoing safety can be implemented.

Administrators should realize that they can be held responsible for the actions of their staff members under a doctrine of *respondeat superior*, let the superior answer. In determining whether the administrator should be held liable, courts pose questions such as these: Has the administrator developed a clear policy for staff conduct in dealing with situations such as the one which resulted in the student injury? Has the administrator implemented the policy? Are staff members supervised?

The fourth element necessary for negligence is injury. If there is no injury, there can be no finding of legal negligence. If a teacher leaves twenty children unsupervised near a body of water, he or she is certainly acting irresponsibly. If no one is injured, however, there is no tort of negligence. Obviously, no one should take chances with student safety, but the reality is that there has to be an actual injury before a finding of negligence can be sustained.

Extended care programs are potentially more dangerous than regular classrooms. Hence, a greater standard of care will probably be expected of staff members than would be required of teachers in a traditional program. Administrators and staff are expected to keep all equipment in working order and to render areas used by children free of unnecessary hazards.

Physical activities are potentially dangerous. In 1982 two authors, Clear and Bagley, writing about athletic injuries, offered timely advice to persons involved in any level of education:

First, it must be assumed that litigation can and will arise from each and every injury that occurs. This creates an awareness that much is at stake. Second, it must be believed that the only way to avoid liability for injury is to be completely free from cause relating to it. Third, no action can ever be taken or not taken which results in injury to a student. (p. 185)

Extended care administrators must take an offensive approach with regard to the elimination of hazards. All activities should be carefully monitored. All staff, paid and volunteer, should receive thorough and ongoing orientation and instruction. Those extended care programs which are part of the traditional school should have, at the bare minimum, the same policies and procedures with regard to safety that the traditional school has. The best defense for an administrator in a negligence suit is a reasonable attempt to provide for the safety of those entrusted to his or her care by the development of reasonable policies and rules. The reasonable administrator supervises teachers. The administrator who practices prevention by constantly eliminating foreseeable risks will avoid costly lawsuits and student injury.

CORPORAL PUNISHMENT

Corporal punishment has been a part of student discipline from earliest times. In spite of the possibilities for student injury and the awareness of child abuse problems, the majority of states still allow corporal punishment in public schools. Nonetheless, persons administering corporal punishment which results in student injury can be liable for the civil torts of assault (fear of imminent bodily harm) and battery (an unwanted touching).

Corporal punishment is not simply hitting a student with an object. It has been construed by many courts as meaning any punitive touching. Pushing, shoving, pulling hair or limbs, slapping, ear boxing, *et cetera,* can be corporal

punishment. A statement such as the following might be included in a staff handbook:

> No child shall be subjected, under any circumstances, to corporal punishment inflicted in any manner upon the body or to verbal abuse, or be deprived of regularly scheduled meals or any part of meals or snacks as punishment, or [be] punished for toilet accidents. (Cohen, p. 92)

Realizing that an adult can "lose it" and administer inappropriate bodily discipline, administrators should implement a policy which requires a staff member to notify a superior immediately if such an incident should happen and to file a written report with all pertinent details.

SEARCH AND SEIZURE

Search and seizure is the third tort often arising in educational settings. In a public school case, *New Jersey v. T.L.O.* 105 S.Ct. 733 (1985), the Supreme Court ruled that public school officials need only have reasonable cause to search a student's belongings. There have been no cases alleging torts arising from search and seizure in the Catholic school. Even though there is no Constitutional requirement that Catholic school officials require even reasonable cause before searching student belongings, the Gospel demands that children be respected and that unnecessary intrusions into their persons and possessions be avoided.

Safety, however, requires that school officials be able to search students and their belongings if there is a need. The newspapers are full of stories about children bringing weapons and other dangerous items to school. Extended care administrators should develop a policy regarding search and seizure in the extended care setting. That policy should then be communicated to staff members, parents, and students so that misunderstandings can be avoided.

DEFAMATION OF CHARACTER

Defamation of character describes two torts: slander, which is spoken, and libel, which is written.

Defamation is an unprivileged communication; it is a statement made by one person about another person to a third person who is not privileged to receive it.

*Black's Law Dictionary*_(1979) discusses defamation: "A communication is defamatory if it tends so to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him." (p. 375)

Some people mistakenly believe that the truth is an absolute defense to a charge of defamation. A leading writer on tort law, William Prosser (1971) has observed that defamation encompasses a wide range of comments; almost anything negative said about someone could be construed as defamatory since it could affect a person's reputation or the esteem in which the individual is held.

All school staff members must be extremely prudent in any comments, oral or written, made about students. Comments made to parents should be about the parents' own children, not about other people's children. Communication should be made only to those persons who have a legitimate right to know.

Any documents kept concerning children must be both accurate and protective of the rights of individuals whose behavior is being recorded. Disciplinary records must be objective and factual. Communications should be measured against a standard that what is written be *specific behaviorally- oriented, and verifiable.* It is better to say, "Johnny has not been able to sit quietly for more than ten minutes," than it is to say, "Johnny is a real squirmer who is probably hyperactive." A statement such as, "Mary Louise has been placed in time out for fighting four times this week," is preferable to "Mary Louise is a real trouble-maker".

Catholic schools are not immune to tort suits. Extended care programs involve special risks in terms of program offerings, equipment, and in the general energy level of students who are coming to the program after spending the day in a traditional school setting. The extended care administrator needs to possess a working knowledge of the law as it affects an extended care program in a Catholic school. It is the administrator's responsi-

bility to insure that the staff is acquainted with all pertinent legal requirements and that policies for periodic review of procedures and ongoing supervision of staff are in place.

CHAPTER IV

Handbook Contents: Legal Protection For Extended Care

Extended care administrators should give careful consideration to the development and implementation of a handbook for their program. The handbook need not be a lengthy document, but everyone will be in a much better legal position if pertinent and important information has been committed to writing.

Many extended care programs are legitimately part of the schools in which they exist. Certainly, the extended care handbook should be in agreement with that of the elementary school. Whatever differences exist should be attributable to program needs. (For a detailed discussion of parent/student handbooks in the Catholic elementary school, readers are directed to the author's work, *School Handbooks: Some Legal Considerations* published by the NCEA in 1989.)

The extended care handbook binds both the school and the parent. Parents enrolling children in extended care should be required to sign a statement such as, "We have read and agree to be governed by this handbook." If a parent fails to sign the statement, the child should not be admitted into the program.

This chapter is devoted to an outline and discussion of items which should be included in an extended care parent handbook. The checklist which follows should help

the administrator judge what is needed in the handbook and what specific revisions would strengthen an existing document.

Extended Care Parent Handbook

	What Should a Program Have?	What Does My Program Need?
Philosophy/Goals		
Admission Policies		
Program		
Communication		
Daily Release		
Discipline Code		
Field Trips		
Health and Safety		
Emergency Procedures		
Nutrition		
Records		
Single Parent/Other Relative Considerations		
Visitors		

Evaluation

School's Right
Amend _____

Parent(s)' Signed
Agreement _____

Philosophy/Goals

A philosophy answers the question, "What do we say that we are doing in this program?" An extended care philosophy should tell parents what the staff believes about children and their care. Often that belief will be the same as the school's philosophy.

Goals and objectives are ways in which a philosophy is "fleshed out". The following is an excerpt from the handbook of an extended care program located in a Catholic elementary school:

> The After School Center strives to construct an enjoyable atmosphere with varying activities, including vigorous play, art activities, homework time and indoor games. The children are served a nutritious snack and juice each day.

Specialized instruction is offered in various classes according to the group's interests (extra charge for some). Examples include piano lessons, gymnastics, dance, soccer and jump rope skills. (Ritchey, 1989)

Admission Policies

The bases for admission must be clearly stated. Ordinarily, only students enrolled in the Catholic elementary school will be allowed to enroll in the extended care program. Some states allow a certain percent of children from other schools to be admitted to the program. Extended care is a privilege, not a right. Parents must under-

stand that their children have to obey the rules and regulations in order to continue in extended care.

Fee requirements and policies regarding refunds should be stated. Are fees paid weekly or monthly? Are the parents charged for days when the child is absent from school? For days when the child attends school but, for some reason, does not attend the program? Administrators should give serious thought to a flat fee. If deductions are made, it is probably advisable only to make them when the child is absent from school. Otherwise, it will be difficult to plan staffing accurately and to project a reasonable budget. If parents are allowed to place children in extended care on an "as needed" basis, the administrator should consider charging a higher rate.

Program

This section should describe the activities available to the children. A list might include: games, music lessons, art, field trips, play, gymnastics, *et cetera*. A sample schedule is another way to give program information. The following schedule indicates activities beginning with those for kindergartners who attend:

11:00 a.m. - 12:00 noon	Outdoor Play
12:00 p.m. - 1:30 p.m.	Lunch/Quiet Time
1:30 p.m. - 2:30 p.m.	Arts/Music and Movement Creative Play
2:30 p.m. - 3:00 p.m.	Snack/Clean Up
3:00 p.m. - 4:00 p.m.	Outside Play/Group Games
Gym (in bad weather)	
4:00 p.m. - 5:30 p.m.	Homework (older children) Games/Art (younger children)
5:30 p.m. - 6:00 p.m.	Clean Up

(Gottbrath, 1989)

Communication

Parents should be told how and when staff will communicate with them. If there are regular times for reporting, these should be noted. Procedures for making longer appointments should be given. The preferred mode for parent communication with staff should be indicated.

Parents must understand that they may not expect a staff member's full attention if children are present.

Daily Release

A child should be released only to parents or to an individual who has been authorized by the parents to pick up the child. Exceptions should *never* be made. It is advisable to require parents to sign children in (for before school care) and out when picking them up in the afternoon. Clear procedures for pick-up should be in place. For example, the school may require that parents designate *in writing* those persons who may pick up their children. A few schools issue photo IDs to those authorized to pick up children.

Discipline Code

Acceptable and unacceptable behavior should be clearly delineated. Administrators must protect programs and students from the difficulties that serious behavior problems can cause. Parents must agree to cooperate in insuring that their children behave appropriately.

The type of discipline that will be imposed upon students should be noted. One program offers a simple paragraph on discipline:

> Every child is expected to: abide by the rules of the Center, respect staff members, other students, and all property. If a child violates these standards, we will first take action by removing the child from the group and seating him by himself for a 5 to 30 minute period. If the child does not respond to this and the problem behavior persists, the parents will be called in for a conference. Should there continue to be problems, a second conference will be arranged and at that time the child may be dismissed from the Center. (Ritchey, 1989)

Another program chooses to list rules:

AFTER SCHOOL RULES

1. Each child is expected to participate in all activities to the best of his/her abilities.
2. No child is to leave the supervision of his/her teacher without expressed permission.
3. No foul language or profanity will be tolerated.
4. Any child who consistently misbehaves, is non-cooperative, or fails to comply with stated rules cannot be taken on the weekly field trips. Parents will have to find an alternative for that day since all teachers will need to be with the group.
5. No biting, pinching, hitting, kicking, or bodily harm to another individual will be tolerated.
6. Running in the halls or down steps is dangerous and cannot be permitted.
7. Each child will be expected to help clean up his/her toys, crafts supplies, and to generally straighten the room.
8. Each child is unique and valuable; therefore, we will expect every child to be treated with respect, love, and concern.
9. Please do not bring toys or other articles from home without permission from your teacher.
10. Each child 6 and under will be expected to lie down on a mat from home for rest at least 1 hour each day immediately following lunch.
11. Each child must remain quietly seated at all times that a bus or car is in motion.
12. Children will be divided into small groups for the field trips and will need to stay with his/her assigned teacher at all times. (Gottbrath, 1989)

Extended care administrators, like all school administrators, must insure that students and their parents are treated in a manner consistent with the requirements of the Gospel and the demands of civil law. The rudiments of due process and fair play should be met: *notice* (students are told what they have done or are accused of doing); *hearing*

(students are allowed to present their side of the story); before an *impartial tribunal* (courts assume that school administrators are impartial and will act in good faith). There should be some avenue of appeal, such as recourse to the principal, for serious disciplinary matters.

Field Trips

Extended care administrators may wish to include field trip experiences in their programs. Although most accidents occur in classrooms, because that is where children spend most of their time, off-campus activities pose greater dangers.

Administrators should be sure that every field trip has an educational purpose. Inherently dangerous activities should be avoided, and parents should be informed of any potential dangers. Permission forms should be required for all field trips.

It is possible to use a standard form giving "blanket" permission for field trips during the year if the trips are all to the same destination. For example, if older children are taken weekly to a bowling alley, one form giving permission for the student to go to the bowling alley whenever there is an outing should suffice.

For all other trips, separate permission slips should be used. The following format or a similar one is strongly suggested:

> I/We, the parent(s)/guardian(s) of _____ request that the school allow my/our son/daughter to participate in (insert activity/trip). We hereby release and save harmless the school of_____ and any and all of its employees from any and all liability for any and all harm arising to my/our son/daughter as a result of this trip. (Shaughnessy, 1989, p. 47)

If both parents have custody, then both should sign the permission form. If one parent is out of town or otherwise not available, that fact should be noted on the form.

As far as possible, school buses and/or leased buses should be used for field trip transportation. The use of

private cars should be avoided if at all possible. If private vehicles are used, parents should sign a separate statement on the field trip form agreeing to the mode of transportation.

Paid and volunteer staff members driving private automobiles should be told whether the school has insurance covering them in the event of an accident. If there is no school coverage, staff members should understand that they can be held personally liable in the event of an accident. In the light of the potential for liability, administrators should consider taking only field trips within walking distance or those for which leased or school-owned buses are available.

The ratio of children to adult chaperons for off-campus field trips should be stated in the handbook. Many experts recommend one adult to every ten children in primary grades. A few states have laws mandating the appropriate student/chaperon ratio.

A student who does not have a signed permission slip should not be allowed to go on the trip. Parent phone calls should not be accepted in place of the signed form. A non-standard form such as a note stating "Bobby can go with you today," should not be accepted, as a parent could always allege that he or she was not aware of the real destination. Administrators should consider placing a sample permission slip in the handbook. Parents who do not have the proper form can simply copy the form in the handbook.

Health and Safety

Extended care should have access to all health information which the school has on file. If offices and files containing such information are not available at all times when extended care is in session, duplicate copies should be made and filed in the extended care office.

A policy stating that students who have any sort of communicable disease ordinarily will not be permitted to attend the program should be included. School policy concerning students with AIDS should be drafted in accordance with state law. Procedures for contacting parents or

their designates if children exhibit signs of illness during the program day should be clearly detailed.

Procedures for dispensing medication must be outlined. Some states allow schools to dispense only prescription medicine. If the student is taking medication during the school day as well, one form may suffice so long as both regular school and extended care staff have access to it. The following is a form used by one extended care center:

PERMISSION TO DISPENSE MEDICATION

I, _____, give permission to the staff of Good Shepherd Child Center to give my child, _____, the following

medication at the following scheduled times:

MEDICATION DOSAGE TIMES TO BE ADMINISTERED

_____

_____

_____

_____

Parent or Guardian Signature

Address _____

Work Phone No. _____

Home Phone No. _____

Date _____

REMINDER: All medication must be in its original container. The container must be marked with the child's name. (Campbell, 1989)

It is advisable to include a sample form in the handbook for parent convenience if the original form is misplaced or otherwise unavailable.

Any safety regulations of which parents should be aware must be listed. Types of toys, games, *et cetera,* that are not acceptable must be indicated. A statement in which the administrator reserves the right to determine the appropriateness of toys and other items should be included.

Emergency Procedures

This section should explain how parents will be contacted in the event of any necessity. Parents should be called at home and/or at work. If the parent cannot be reached, emergency contacts indicated by the parent on the emergency or registration form should be contacted. The absolute *minimum* of emergency contacts permitted should be two.

All schools should have a disaster plan that is outlined in the handbook. If the building should be evacuated, where will the children be taken? How can the parent(s) contact school officials in the event of evacuation?

Nutrition

Information concerning the importance of good nutrition should be given. If parents are required to provide snacks for a child, suggestions as to appropriate food choices should be made. If certain items, such as sugary treats or cola, are not permitted, parents should be informed so that they will not send the forbidden items with the student. If the program provides the snacks, the types of food should be indicated. Parents of children with special diet problems should be directed to discuss these with the administrator and to give written notification of "forbidden" foods.

Records

Parents should know what types of records will be kept concerning their child. The handbook should include a policy that all records are confidential and will be shared only with those who have a legal right to know. The

procedure parents should follow in asking to review records should be stated.

Single Parent/Other Relative Considerations

The school should have on file copies of any custody decrees or other documents relating to a parent's contact with a child if both parents do not have custody of the child. Extended care should have access to this information so that staff will know when, if ever, a child may be released to a non-custodial parent. (For example, some non-custodial parents have weekend visitation rights. It may be entirely appropriate for the non-custodial parent to pick up the child at the program site on a Friday afternoon.) If there are questions, the administrator should confer with the principal who may contact the custodial parent. If there is doubt as to the appropriate course of action, the school or diocesan attorney should be consulted before any action is taken.

Other relatives can sometimes present a problem for extended care staff. Only parents and their designates should be allowed to discuss the child with staff members. This requirement applies to aunts, uncles, cousins, and grandparents. Relatives sometimes wish to give information, and/or, if a possible divorce or other problem is present, to obtain information. All such relatives should be referred to the principal who may listen to comments but who should provide no information to the relatives without the consent of the parent.

Visitors

Extended care programs should, as far as possible, have an open door policy with regard to parent visits. The administrator may make regulations regarding non-interference with other children and with the program, as appropriate. Conversely, staff should insure that only parent visitors or their designated representatives are allowed on the program site unless on appropriate official business. In such a case, the visitor should be accompanied by a school official at all times.

Evaluation

Evaluation is an integral part of any educational program. This handbook section should describe the methods of both informal and formal evaluation. Parent input should be encouraged. The following are one center's parent and student evaluation forms.

To: Parents of School Age Children
From: Director
Re: Before and After School Care

We have completed five months of our care for your child. May we ask you to complete the following and return it to us?
(Please circle response.)

1. Do you believe the Center has provided good care to your child/children? Y N
   Comment: _____
   _____

2. Have you been satisfied with the after-school program? Y N
   Comment: _____
   _____

3. Would you recommend the program to friends? Y N
   Comment: _____
   _____

4. Have your children been happy and enthusiastic about coming? Y N
   Comment: _____
   _____

5. Do you have any concerns about the program? Y N
   Comment: _____
   _____

6. Will your child be enrolled during the summer? Y N

Comment: _____

_____

7. How and in what ways can you suggest that we improve the program?

_____

_____

We appreciate your help. Thank you!

Signature (optional)_____

STUDENT EVALUATION FORM

We want you to be happy coming to the Good Shepherd Center. You can help us make it better by answering these questions. Tell us how you really feel. Don't write what you think we want to hear.

1. How long have you been coming to the Center?

_____

2. Do you like coming to the Center? Y N

3. Do you like the program we have? Y N

4. Do you learn new and good things? Y N

5. Has coming here helped you to be better in school? Y N

6. Has coming here helped you to learn to obey Mom and/or Dad? Y N

7. Is there anything you can tell us that will help you like it better? Y N

8. How can we help you? _____

_____

9. Do you believe the staff likes you and cares for you? Y N

10. Would you tell your friends this is a good place to be? Y N

(Campbell, 1989)

School's Right to Amend

It is good legal protection to add a clause such as the following: "The program reserves the right to amend the handbook for just cause. Parents will be promptly notified in writing if changes are made."

Parent(s) Signed Agreement

As was mentioned earlier in this study, parents should be asked to sign a statement such as, "We have read and agree to be governed by this handbook." Such an agreement can help to avoid problems that could arise if parents state that they did not know that such a policy or regulation existed.

Programs would be well advised to refuse to provide services for a child until such a signed agreement is submitted. Since a handbook is part of the contract between the parents and the program, it is wise to insure that the parent has read the handbook and has agreed to be bound by its provisions.

SOME FURTHER CONSIDERATIONS

Administrators need to be well aware of the law and its parameters. Indeed, even if school age child care licensing is not sought, administrators would be well advised to strive towards *voluntary* compliance with licensing requirements. In a few states the government has responded to reports, investigated school age child care programs, and closed them if they were not in compliance with state regulations.

For numerous and valid reasons extended care programs are here to stay. Parents need and appreciate their services and children usually value the safe, nurturing environment provided by extended care. For staff members, too, a well-designed and administered program offers positive opportunities. Adults who provide extended care

can serve as significant role models for children. Thus, although such programs must meet the myriad challenges of civil law, they also present countless opportunities for Christian ministry. Extended care can be a practical and effective means for Catholic education to echo anew Christ's invitation for children to come to Him. The joyful service of extended care staff members can proclaim the Gospel in ways that will enrich the lives of children now and in the future.

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Index

Administration responsibilities 34, 42
Admission Policies 31
Agreements 42
Amendment Rights 42
Bishop, Role of 7, 8
Breach of Contract 16
Breach of Duty (See NEGLIGENCE)
Bob Jones Univ. v. U.S. 10, 11
Canon Law 7, 8
Catholic Charities 4
Catholic School, Types 7, 8
Catholic School v. Public School 9, 10
Child Abuse 12, 13
City/Town Regulations 14
Civil Law 9
Common Law 9, 14
Constitutional Law 9
Contract Law 9, 14-16
Criminal Checks 13
Defamation (See TYPES OF TORT LAW)
Discipline Code 33
Discrimination 10-12
    Racial 10, 11
    Sexual 11
    Handicapped 11, 12
"Drop-in" Service 61
Duty (See TORT LAW)
Emergency Problems 38
Evaluation 40-42
Extended Care 2-8
    Titles 2
    In Catholic Schools 4
    Independent of Schools 6, 8
    Defined 2, 6
    Legal 6
Field Trips 35, 36
Fingerprinting 13

Goals (See PHILOSOPHY)
Handbook (Parent/Student) 16, 29-42
Health .....
36-38
Injury (See TYPES OF TORT LAW)
Levandoski v. Jackson City School District 21
Libel 25
Licensing 2, 3, 33, 42
Scope of Authority 5
New Jersey v. T.L.O. 25
Negligence (See TORT LAW)
Nutrition 38
Pastor, Role of 8
Permission Slips 35
Philosophy 5, 31
Principal, Involvement of 3, 4, 5
Private Agency v. Government Agency 9
Proximate Cause (See TYPES OF TORT LAW)
Records 38
Release Policy 33
Safety 36-38
Search and Seizure (See TORT LAW)
Single Parent/Other Relative 39
Slander 25, 26
Smith v. Archbishop of St. Louis 22
State Law 3
Statutes and Regulations 9, 10
Superintendent of Schools, Role of 8
Teen-Age Volunteers 14
Titus v. Lindberg 20
Types of Tort Law 18-26
Negligence (Elements) 18-20
Duty 19
Breach of Duty 21
Proximate Cause 21, 22
Injury 23, 24
Corporal Punishment 24, 25
Search and Seizure 25
Defamation of Character 25, 26
Visitors 39

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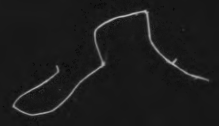

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